REMARKS

Claims 1-4 and 6-8 are pending. Favorable reconsideration in light of the remarks which follow is respectfully requested.

1. IDS filed August 23, 2001

Applicant note that page 2 of the PTO-1449 that accompanied Applicants' August 23, 2001 Information Disclosure Statement (IDS) was not initialed by the Examiner. Applicant requests that the Examiner return an initialed copy of page 2 of the PTO-1449 to indicate that A26-A52 have been received and considered.

2. 35 U.S.C. 103 Rejection

Evard et al. and Yachia et al.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) over Evard et al. (WO 97/27898) and Yachia et al. (5,246,445).

Claim 1 is applicants' sole pending independent claim, and it recites a stent for use within a body lumen of a patient. The stent comprises a coil segment and a flexible polymer material. The coil segment comprises a wound element including one or more windings spaced from each other along at least a portion of the length of the coil segment. The spaced windings are separated by a distance of at least about 0.5 millimeters. The coil segment is extendable lengthwise from a first length to an extended length, and is compressible lengthwise from the extended length. The flexible polymer material encapsulates at least a portion of the coil segment and is disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings.

Applicants respectfully submit that Evard at least does not describe or suggest (i) a wound element including one or more windings spaced from each other by a distance of at least about 0.5 millimeters or (ii) a polymer material encapsulating at least a portion of the coil segment and disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings.

As acknowledged in the action (page 3), Evard fails to disclose a distance between windings.

With respect to the webbing, the Office asserts that Evard describes a "webbing" on page 33, lines 5-8. Applicants respectfully disagree.

The description at page 33 of Evard, when taken in context, relates to a sinusoidal wire connector device which may have a covering mounted on a portion of the device. As specified by Evard, a

> covering formed of any suitable material (e.g., elastomeric fabric, natural graft material, etc.) may be formed on all or part of the device. For example, a tubular covering may be mounted on the mid-portion formed by the smaller sinusoidal waves or convolutions 102 and the basal portions of the larger sinusoidal waves or convolutions 104, and such a cover may optionally extend outwardly over the entireties of the laterally bent portions of the larger sinusoidal waves or convolutions 104, in accordance with the invention as described hereinabove in relation to Figures 7c and 7d. (Page 33, lines 5-16, emphasis added)

Thus, in this embodiment, Evard describes a wire, formed into multiple sinusoidal waves and connected on each end to form a loop, with a "covering" mounted thereon. Applicants note that even if Evard could be interpreted to suggest a coil segment having a "covering", Evard still would not teach or suggest applicants' stent as recited in claim 1. Evard's covering is not disposed between the "windings" (sinusoidal waves), as recited in claim 1.

Applicants disagree with the assertion in the action (page 2) that Evard "discloses a covering or what can be interpreted as 'webbing'" and that the Examiner interprets the limitation

> "webbing between the windings" to be present in the Evard device since the covering is over the windings, it can be considered between the windings.

Applicants respectfully submit that Evard does not teach or suggest anything, much less webbing, between spaced windings. Evard's "coating" which is mounted on Evard's device (See, e.g. Figs. 7c and 7d) is in the form of a tube that is placed over Evard's sinusoidal wave

device. As such, the sinusoidal wave device extends through the lumen of the tubular covering. The tubular covering is, in no way, disposed between the sinusoidal waves nor could it be interpreted as being disposed between the sinusoidal waves.

Further, due to the different uses and requirements of Evard, applicants respectfully submit that there would be no motivation to modify Evard to include webbing between windings. Rather, such motivation comes purely from applicants' disclosure.

Further, Yachia does not remedy these deficiencies of Evard. In particular, Yachia merely describes an implant that may be in the form of a wound wire. Yachia does not describe or suggest webbing or even "coverings" of any type. Rather, according to Yachia, the wire is formed of tight windings, which are important to prevent "leaking through" of the inner lining of a vessel or duct, which would result in incorporation of a device into the vessel or duct (col. 4, lines 45-49). Most of Yachia stresses the importance of providing very little, if any, space between windings. Yachia does disclose one example where a particular amount of space is provided between windings. Specifically, in the one exceptional embodiment, space may be left between the loops of the coil where it is desired that a stent become incorporated into the vessel or duct (see col. 4, lines 49-52). Thus, in Yachia, any space between windings is provided for the sole purpose of allowing the stent to become incorporated into the vessel or duct. As such, one of ordinary skill would not have disposed anything between the windings of Yachia's device because that would have inhibited the ingrowth of body tissue between the windings, and thus would have inhibited Yachia's stent from becoming incorporated into the vessel or duct. Yachia specifically teaches away from inhibiting tissue ingrowth when there is space between windings of the coil. Modification of Yachia so as to provide the claimed webbing would have rendered Yachia unsatisfactory for its intended purpose of allowing ingrowth and incorporation of the device. Thus, one of ordinary skill would not have been motivated to make such a modification (MPEP §2143.01).

With respect to the Office's assertion that Evard could be provided with spacings between windings of 0.1-2mm as set out by Yachia. Applicants respectfully disagree.

Evard does not describe or suggest that any particular space between windings should be used. Yachia, as set forth above, describes one embodiment wherein very little, if any, space is provided between windings to prevent "leaking through" of the inner lining of a vessel or duct, which would result in incorporation of a device into the vessel or duct (col. 4, lines 45-49). Yachia further describes a second embodiment where a particular amount of space is provided between windings for the sole purpose of allowing the stent to become incorporated into the vessel or duct (see col. 4, lines 49-52). Thus, a combination of Evard and Yachia would not teach or suggest applicants' stent as recited in claim 1 which provides spaced windings separated by a distance of at least about 0.5 millimeters together with an imperforate flexible webbing between the windings.

Accordingly, applicants submit that claim 1 is patentable over Evard in view of Yachia. Claims 2-4 and 6-8 depend from claim 1 and, likewise, are patentable over Evard in view of Yachia.

Evard et al., Yachia et al., and Hachtman et al.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) over Evard et al. (WO 97/27898), Yachia et al. (5,246,445), and Hachtman et al. (5,645,559).

As set forth above, Evard and Yachi at least do not describe or suggest a wound element including one or more windings spaced from each other by a distance of at least about 0.5 millimeters and a polymer material encapsulating at least a portion of the coil segment and disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the windings.

Hachtman, in combination with Yachia, does not remedy the deficiencies of Evard as set out above. In particular, Hachtman merely describes a stent in the form of an open weave/mesh. Hatchman does not teach or suggest a coil segment comprising a wound element including one or more windings spaced from each other by a distance of at least about 0.5 millimeters and a polymer material encapsulating at least a portion of the coil segment and disposed between the spaced windings of the wound element to form an imperforate flexible webbing between the

windings. Given that each of the three references fails to teach or suggest at least these aspects of claim 1, no combination of Hachtman, Yachia and/or Evard could have resulted in applicants' stent recited in claim 1.

Applicants submit that claim 1 is patentable over Evard, Yachia, and Hachtman. Claims 7 and 8 depend from claim 1 and, likewise are patentable over Evard, Yachia, and Hachtman. Reconsideration and withdrawal of the rejections is respectfully requested.

CONCLUSION

In view of the foregoing, applicants request reconsideration and allowance of claims 1-4 and 6-8.

It is believed that no fees are required for consideration of this response. However, if for any reason the fee paid is inadequate or credit is owed for any excess fee paid, the Office is hereby authorized and requested to charge Deposit Account No. **04-1105**.

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Respectfully submitted,

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